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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,834	11/19/2003	Dwight E. Nickel	33059	7068

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EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,834

Applicant(s)

NICKEL ET AL.

Examiner

Meredith C Petravick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-7, 11-13, 21-23, 26-28 is/are allowed.
- 6) ☒ Claim(s) 4-7, 11-13, 21-23 and 26-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 8-9, 14-16 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook, 6,050,070 in view of Garrett et al. 3,513,645 and Pruitt et al., 6,158,201.

Cook discloses a crop conditioner (Fig. 16) including:

- a front pair of movable non-compressible surface rolls (83,81)
- a rear pair of movable compressible surface rolls (5,6)
- a tension mechanism (Figure 16 and Column 9, lines 34-36) to resist relative movement of the rolls of each pair away from one another

Cook fails to disclose the front pair of roller having intermeshing helical metal ribs and the rear pair having intermeshing helical bars. However, Cook suggests that the front pair of rollers may include any patten or combination of protrusions around it outer surface (Column 9, lines 42-44) and that the rear pair of rollers “may be imparted with any one of a number of different patterns. (Column 4, lines 64-66)”

Like Cook, Pruitt et al. discloses a crop conditioner having non-compressible surface rolls (170, 172). The rolls have intermeshing, helical metal ribs (Column 7, lines 62-66).

Also like Cook, Garrett et al. discloses a crop conditioner having compressible surface rolls (2, 3). The rolls have intermeshing, helical bars (Column 2, lines 8-21).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the front pair of rollers in Cook have intermeshing, helical metal ribs as in Pruitt et al., as one known type of non-compressible roller used to condition crops, and to make the rear pair of rollers in Cook have intermeshing helical bars as in Garrett et al., as one known type of compressible roller that efficiently conditions crops.

Regarding claims 8-10, the tension on the rollers can be independently adjusted since they are independently supported by the tension mechanism.

Regarding claims 14-16, the front rollers are made from metal and the rear roller is made from rubber, elastomer or neoprene (Cook, Column 4, lines 58-59).

Regarding claim 2, the conditioner has an adjustable stop (Cook, 77).

3. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holtkotte 6,584,755 in view of Pfrimmer 5,531,062.

Holtkotte discloses a crop conditioner including:

- a pair of oppositely rotatable rolls (28) that are movable toward and away from one another
- a tension mechanism with a hydraulic cylinder (38) and a hydraulic circuit (Fig. 2)

However, Holtkotte does not disclose providing adjustable stops structure for adjustably limiting relative movement of the rolls of each pair toward one another to present gaps between the rolls.

Like Holtkotte, Pfrimmer discloses a crop conditioner with rolls that move toward and away from each other. Unlike Holtkotte, Pfrimmer teaches providing an adjustable stop to limit the minimum spacing between the rolls (Column 3, lines 20-34).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the crop conditioner rolls of Holtkotte with an adjustable stop as taught in Pfrimmer, in order to facilitate versatility by allowing the rolls to adjust for different operating conditions.

Regarding claims 18-19, the circuit includes a valve (40) for setting the pressure level in the cylinder.

Regarding claim 20, the circuit includes a compressible gas accumulator (Column 3, lines 4-6).

4. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook, 6,050,070, Garrett et al. 3,513,645 and Pruitt et al., 6,158,201 as described above and further in view of Pfrimmer.

The combination above discloses the claimed invention except for an adjustable stop structure for adjustably limiting relative movement of the rolls of each pair toward one another to present gaps between the rolls.

Like the combination, Pfrimmer discloses a crop conditioner with rolls that move toward and away from each other. Unlike the combination, Pfrimmer teaches providing an adjustable stop to limit the minimum spacing between the rolls (Column 3, lines 20-34).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide each pair of crop conditioner rolls in the combination with an adjustable stop as taught in Pfrimmer, in order to facilitate versatility by allowing the rolls to adjust for different operating conditions.

Allowable Subject Matter

5. Claims 4-7, 11-13, 21-23 and 26-28 are allowed.

Response to Arguments

6. Applicant's arguments filed 12/7/2004 have been fully considered but they are not persuasive.

Regarding claims 1, 24 and their dependent claims, applicant claims the combination of reference is not obvious because there is no motivation. Applicant only discusses the Cook reference. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding claim 17 and its dependent claims, these claims are now rejected under 35 USC 103. Regarding claim 29 and its dependent claim, applicant seems to argue that the limitation "adjustable stops structure disposed for adjustably limiting relative movement of the rolls of each pair toward one another to present gaps between the rolls" requires that each roll has a stop. However, the limitation only requires that *each pair* of rolls have structure for relative movement of the rolls toward one another.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith C Petravick whose telephone number is 703-305-0047. The examiner can normally be reached on M-T 8:00 a.m.- 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'M. Petravick', is positioned above the printed name.

Meredith C Petravick
Primary Examiner
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February 23, 2005